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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/275,495	03/24/1999	VLADIMIR GARTSTEIN	7081M	9817

7590 12/17/2002

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EXAMINER

MERCADO, JULIAN A

ART UNIT

PAPER NUMBER

1745

DATE MAILED: 12/17/2002

19

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/275,495

Applicant(s)

GARTSTEIN ET AL.

Examiner

Julian Mercado

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 October 2002.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-12, 14-22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 12, 14-22, 28 and 29 is/are allowed.
- 6) ☐ Claim(s) 1-11 and 24-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Remarks***

This Office Action is responsive to Applicant's amendment filed October 7, 2002.

### ***Claim Rejections.- 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai et al.

Nagai has been discussed extensively in the previous Office Action(s). The rejection is maintained for the reasons of record.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai et al. as applied for claims 1-7 and 24-27 above, in view of Stewart.

Nagai and Stewart have been discussed extensively in the previous Office Action(s). The rejection is maintained for the reasons of record.

### ***Response to Arguments***

Applicant's arguments filed with the present amendment have been fully considered but they are not persuasive.

The examiner acknowledges Applicant's amendment as an attempt to differentiate from the prior art, more specifically from the prior art rejection based on Nagai et al., in that the

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amended claims recite that the controller is "suitable for use in batteries including a primary battery and a secondary battery". This amendment was submitted in reply to the examiner's statement that Nagai was exclusively for use with secondary batteries alone. However, while this argument may have merit, the present amendment language in reciting that the controller is "suitable for use in" both primary and secondary batteries has not been given patentable weight, as such language is construed as a statement of intended use not requiring additional steps to be performed and/or not further limiting the claim to a particular structure. Thus, the amendment to the present claims is not considered to further limit the scope of the claims.

In view of the foregoing, the prior art rejections are maintained for the reasons of record.

#### *Allowable Subject Matter*

Claims 12, 14-22, 28 and 29 are allowed for the reasons set forth in the previous Office Action.

#### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (703) 305-0511. The examiner can normally be reached on Monday through Friday.

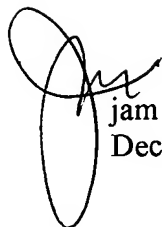
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (703) 308-2383. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to be "jam", written over the typed name "jam".

jam  
December 15, 2002

A handwritten signature in black ink, appearing to be "Patrick Ryan", written over the typed name "Patrick Ryan".

Patrick Ryan  
Supervisory Patent Examiner  
Technology Center 1700